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Dated: 2-28-05

Signature: \_\_\_\_\_

(Silvia Corona)

Docket No.: 420522000100  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Tracy D. WILKINS et al.

Application No.: 09/545,772

Filed: April 10, 2000

Art Unit: 1645

For: RECOMBINANT TOXIN A PROTEIN  
CARRIER FOR POLYSACCHARIDE  
CONJUGATE VACCINES

Examiner: V. Ford

**REPLY BRIEF TO EXAMINER'S ANSWER**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This reply responds to the Examiner's Answer mailed December 30, 2004. A response is due February 28, 2005, and thus this reply is timely filed.

**Issues**

Appellants respectfully present two issues in this reply. First, the Examiner alleges that appellants stated in a telephonic interview that "the essence of the claimed invention was an immunogenic composition that comprises a protein and polysaccharide component wherein the protein comprises rARU and the polysaccharide is not conjugated to the protein or a carrier protein." It is respectfully submitted that such comments were not made. Even if, for the sake of argument, such misstatement was made, canceled claim 63, which was pending at the time of the interview, directly opposes such a statement. Canceled claim 63 is directed to an immunogenic

composition wherein the polysaccharide component is covalently coupled to the protein. This identical issue was addressed in the response filed December 8, 2003 on page 6 thereof, third full paragraph.

The second issue relates to appellants' arguments that were made in the Appeal Brief which were not addressed by the Examiner. Specifically, the Examiner did not respond to the argument regarding a lack of motivation to select a species in the reference and combine such species to arrive at the claimed invention. Of course, without such motivation, *prima facie* obviousness is not established.

### Conclusion

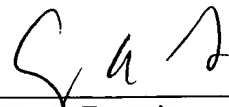
As such, appellants respectfully submit that *prima facie* obviousness has not been established for any cited combination of references and, thus, reversal of this rejection is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the, Patent Office determines that an extension and/or other relief is required, Appellants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 420522000100.

Dated: 2-28-05

Respectfully submitted,

By

  
Carolyn A. Favorito

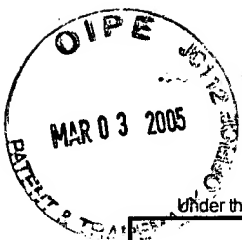
Registration No.: 39,183

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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/545,772	
	Filing Date	April 10, 2000	
	First Named Inventor	Tracy D. WILKINS	
	Art Unit	1645	
	Examiner Name	V. Ford	
Total Number of Pages in This Submission	3	Attorney Docket Number	420522000100

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment/Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Reply to Missing Parts/Incomplete Application  <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) _____  <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, <u>Reply Brief</u> ) (2 pages)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  Return Receipt Postcard
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	MORRISON & FOERSTER LLP		
Signature			
Printed name	Carolyn A. Favorito		
Date	February 28, 2005	Reg. No.	39,183

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